

DEPARTMENT OF JUSTICE SB 67: Prohibit Price Gouging

Background

Montana law has no provision that makes it illegal for a citizen or business to take unfair advantage of people during a crisis such as extreme weather, terrorist attack, war or other emergency. The only Montana laws that regulate the price of consumer goods are those that prohibit selling below cost.

Thirty other states have already enacted price gouging legislation and at least 12 others are considering similar legislative proposals.

In the aftermath of September 11 and Hurricane Katrina, it became clear that states need laws to protect their citizens and businesses from unscrupulous individuals who exploit others during times of crisis by charging far more than usual for necessities such as food, gasoline, generators and hotel rooms.

Protections Proposed in SB 67

To protect Montana citizens, this bill would:

- define essential goods as food, water, fuel, shelter, transportation and medical supplies;
- allow the president, the governor or a judge, upon the request of the attorney general to declare an emergency or a disruption of the market for up to 30 days;
- prevent most increases of over 20 percent on goods and services at the wholesale and retail level during the crisis, unless that increase was attributed to demonstrable increases in costs; and
- prohibit hoarding of essential goods.

SB 67 does not stop businesses from making a reasonable profit. It would allow increases in price over 20 percent if they are based on an increase in the actual cost of doing business, so that if the cost of acquiring goods increased, businesses could increase their prices accordingly. For example, an increase of more than 20 percent may be allowed if a business had to use generators to keep its lights on.

SB 67 was amended in the House to address concerns raised by the petroleum industry.

Penalties

Price gouging and hoarding would be subject to a civil penalty of up to the \$1,000 for each incident, with a maximum of \$25,000 for the duration of the emergency or market disruption. A person or business found to have committed price gouging would forfeit all additional profits over the allowed 20 percent to the victims or, if that is not possible, to the state to deposit in a special revenue account.